

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK----- X  
MARIO GOMEZ,

Plaintiff,

-against-

07 CIV. 9310  
(CLB) (GAY)

VILLAGE OF SLEEPY HOLLOW, DETECTIVE JOSE QUINCY in his individual and official capacity, POLICE OFFICER ELDYK ESEL in his individual and official capacity, POLICE OFFICER MIKE GASKER in his individual and official capacity, POLICE OFFICER RICHARD D'ALLESANDRO in his individual and official capacity, LIEUTENANT BARRY CAMPBELL in his individual and official capacity, LIEUTENANT GABRIEL HAYES in his individual and official capacity, SERGEANT HOOD in his individual and official capacity, CHIEF OF POLICE JIMMY WARREN in his individual and official capacity, and POLICES OFFICERS JOHN DOES 1-4.

Defendants.  
----- X

HELD AT: Young & Bartlett, LLP  
81 Main Street Suite 118  
White Plains, New York 10601  
February 14, 2008 10:15 a.m.

Examination before Trial of the Plaintiff, MARIO GOMEZ, pursuant to Court Order, held at the above time and place before a Notary Public of the State of New York.

J & L REPORTING SERVICE  
of Westchester, Inc.  
200 East Post Road  
White Plains, New York 10601  
(914) 692-1888  
Nancy P. Tenny, Reporter

IT IS HEREBY STIPULATED AND

AGREED, by and between the attorneys for the respective parties herein, that the sealing and filing of the within deposition be waived; that such deposition may be signed and sworn to before any officer authorized to administer an oath, with the same force and effect as if signed and sworn to before the officer before whom said deposition is taken.

IT IS FURTHER STIPULATED AND

AGREED, that all objections, except as to form, are reserved to the time of trial.

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## A P P E A R A N C E S:

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BY: JENNIFER E. SHERVEN, ESQ.

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M. GOMEZ

MARIO GOMEZ, residing at 100  
Main Street, Apt. 3A,  
Irvington, New York 10533-1754,  
having been duly sworn by  
Notary Public, Nancy P. Tenny  
testified as follows:

8 EXAMINATION BY

9 MS. SHERVEN:

10 Q. Good morning, Mr. Gomez.  
11 A. Good morning.  
12 Q. As you may remember we met  
13 before at the 50-h Hearing that was held  
14 previously in this case. I'm an attorney  
15 with Miranda, Sokoloff, Sambursky, Slone &  
16 Verveniotis, and we represent the Defendants  
17 in this Federal action that you have filed.  
18 We are here today so that I can  
19 ask you some questions in this Qualified  
20 Immunity Deposition. Now, please respond  
21 verbally to all of my questions. As you  
22 know, the Court Reporter has to take down  
23 everything that is said here so that we have  
24 a record. So, please, don't nod your head.  
25 Just answer every question verbally, okay.

M. GOMEZ

A. Yes.

Q. If at any time you do not understand my questions, please let me know and I'll rephrase the questions so that you do understand.

If at any time you need to take a break, let me know, and we can do so with the exception that I'll ask if I have a question pending that you please answer the question and then we can take a break, okay.

A. Sure.

Q. Do you have any physical or mental conditions that could interfere with your ability to testify accurately here, today?

A. No.

Q. In the last twenty-four hours have you taken any prescription medication that could interfere with your ability to testify?

A. Well, I had taken prescription medication, but it would not interfere.

Q. Okay. What prescription medications have you taken?

6

M. GOMEZ

A. Topamax.

Q. That's a pain medication?

A. That's for the headaches.

Q. Any other medication that you've taken in the last twenty-four hours?

A. And Lexapro.

Q. What is the Lexapro for?

A. I was prescribed that. I thought I had a heart attack, and it was a panic attack so.

Q. Which doctor prescribed those two medications for you or doctors?

A. Doctor Schwartz is my neurologist, and Doctor Soto.

MR. YOUNG: One second. Let me just step outside.

(Whereupon, a discussion was held off the record outside of the room.)

Q. Would either of those medications interfere with your ability to testify here, today?

A. No.

Q. Did you fail to take any

M. GOMEZ

medications that could affect your ability to testify, any prescriptions that you typically take that the failure to take could affect your ability to testify?

A. No.

Q. In the last twenty-four hours have you consumed any alcohol?

A. No.

Q. In the last twenty-four hours have you consumed any illegal drugs?

A. No.

Q. In preparation for your testimony here, today, did you review any documents?

A. No. Basically I have a copy of that 50-h Hearing that we did a year ago, and I reviewed a little bit of that.

Q. Other than that transcript, did you review anything else?

A. No, nothing else, nothing.

Q. I'm just going to, I know it's hard in normal conversation we talk over each other, but please let me finish my question before you answer even if you think

8

M. GOMEZ

you know what I'm going to say. That way we have the complete record.

A. Sorry.

Q. That's okay. In preparation for today, did you meet with your attorney?

A. Yes.

Q. Other than yourself and your attorney, was anyone else present?

A. No.

Q. In preparation for your testimony today, did you review any videotapes?

A. No.

Q. Other than your attorney, did you speak with anyone concerning your testimony here, today?

A. No.

Q. What is your current address?

A. 100 Main Street, Apartment 3A, letter A as in apple in Irvington, New York.

Q. How long have you lived at that address?

A. About seven months, eight months, around there.

M. GOMEZ

- 1  
2 Q. Who did you live with at that  
3 address if anyone?  
A. By myself.  
Q. What was your address before  
4 you moved to 100 Main Street?  
A. You want me to say it?  
Q. Yes, please.  
A. 100 -- I mean I'm sorry 1 River  
5 Plaza, Apartment 4E, Tarrytown, New York.  
6 10591 is the zip code.  
Q. Is that where you were living  
7 as of October 2006?  
A. Yes.  
Q. Who did you live with at that  
8 address?  
A. With my wife and my three  
9 daughters.  
Q. I was going to say did all  
10 three of your daughters live there, or a  
11 couple of them were away at school at that  
12 time?  
A. Well, one was away at school at  
13 that time.  
Q. Just for the record, what is

10

M. GOMEZ

- 1 your wife's name?  
A. Awilda.  
Q. Gomez?  
A. Gomez.  
Q. What is her maiden name?  
A. Cadet C-A-D-E-T.  
Q. You're legally married to her?  
A. Yes.  
Q. What was the date of your  
2 marriage?  
A. August 23, 1985.  
Q. You have three children with  
3 Awilda Gomez?  
A. Yes.  
Q. What are their names again for  
4 the record?  
A. Haydee Gomez, Haydee -- I'm not  
5 going to -- you don't want the middle names  
6 or anything like that?  
Q. No, that's fine. If you could  
7 give us their date of births that would be  
8 helpful?  
A. Do you want me to spell Haydee  
9 for you? H-A-Y-D-E-E.

M. GOMEZ

- 1  
2 Q. What is her date of birth?  
A. July 13, 1984.  
Q. Is she your oldest daughter?  
A. Yes.  
Q. Which one is your middle  
3 daughter?  
A. Stephanie Gomez.  
Q. What's her date of birth?  
A. January 19, 1988.  
Q. And your youngest daughter?  
A. Bridget.  
Q. What's her date of birth?  
A. August 15, '89.  
Q. Where is Awilda Gomez currently  
4 living?  
A. On the River Plaza address, the  
5 Tarrytown address.  
Q. Are any of your daughters  
6 currently living there with her?  
A. Yes, my oldest daughter.  
Q. Haydee?  
A. Yes. The other two are away at  
7 school.  
Q. Mr. Gomez, are you currently

12

M. GOMEZ

- 1 working?  
A. No.  
Q. You are retired; is that  
2 correct?  
A. Yes.  
Q. Since October of 2006 until the  
3 present time, have you been employed in any  
4 capacity?  
A. No.  
Q. Have you ever been convicted of  
5 a crime?  
A. No.  
Q. What is the date of your arrest  
6 in Sleepy Hollow that is the subject of this  
7 lawsuit?  
A. 10-17 or 10-16, 2006.  
Q. Do you remember what day of the  
8 week that was?  
A. Tuesday, Tuesday night.  
Q. In the twenty-four hours before  
9 your arrest, had you consumed any alcohol?  
A. No.  
Q. In the twenty-four hours before  
10 your arrest, had you consumed any illegal

M. GOMEZ

1  
2 drugs?  
3 A. No.  
4 Q. In the twenty-four hours before  
5 your arrest, did you fail to take any  
6 medications that you typically were taking  
7 at that time?  
8 A. No. I was prescribed  
9 medication, but I was a hundred percent.  
10 Q. You had taken the medication  
11 that you were prescribed at that time?  
12 A. Yes.  
13 Q. What medication were you taking  
14 as of October 17, 2006, or the types of the  
15 medication if you don't recall the exact  
16 name?  
17 A. I don't recall. I don't recall  
18 the exact names. I would have to look.  
19 Q. Do you recall what the  
20 medications were for generally?  
21 A. Well, I was going to my  
22 psychiatrist.  
23 Q. Had the psychiatrist prescribed  
24 any medication?  
25 A. Yes. I was prescribed some

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M. GOMEZ

1 medication, because remember the problem  
2 that I had talked to you about the  
3 depression, and I find out I had hepatitis  
4 C. I was taking a lot of medication for the  
5 liver. I was taking a whole combined  
6 different medication. And I had the problem  
7 with the liver, the hepatitis C. And I was  
8 taking medication for that over a year. And  
9 I did that twice for two years as a matter  
10 of fact.  
11 I had taken so much medications  
12 that, you know, it's not really that I can  
13 remember all of them really, you know.  
14 Q. What was the name of your  
15 psychiatrist as of October 2006?  
16 A. Doctor Soto.  
17 Q. The same doctor that you've  
18 said before?  
19 A. The same doctor, yes.  
20 Q. The doctor who prescribed the  
21 medication for your hepatitis C and other  
22 problems associated with that condition, was  
23 that Doctor Schwartz that had prescribed  
24 those medications?  
25

M. GOMEZ

1  
2 A. No. That's the neurologist  
3 after the incident.  
4 Q. Who was that doctor then?  
5 A. Doctor Chia.  
6 Q. Could you spell that?  
7 A. It's David is the first name,  
8 and Chia is C-H-I-A.  
9 Q. Other than medication for what  
10 you told us was depression, did your  
11 psychiatrist prescribe any other medication  
12 at that time?  
13 A. I think he prescribed -- he had  
14 switched up and down I think ever since that  
15 I was hospitalized because due to the  
16 Hepatitis C, due to that I was hurt in the  
17 line of duty in the Corrections Department  
18 in Riker's Island, and during the incidents  
19 that arise in the 1980's, I've been seeing  
20 the psychiatrist --  
21 Q. Let me just stop you there and  
22 just ask you to just to answer the question.  
23 A. Well, no, I'm giving you my  
24 answer.  
25 MR. YOUNG: No. No. Hold on.

16

M. GOMEZ

1  
2 Q. We don't want to be here all  
3 day.  
4 A. No, I know. That's my answer.  
5 I have to give you the explanation why I'm  
6 taking all those medications.  
7 Q. Actually, right now I'm not  
8 asking you why, though.  
9 MR. YOUNG: Don't worry, we'll  
10 get to that, you and I will get to  
11 that later.  
12 Q. We'll get to that. And I  
13 appreciate that you're being forthright and  
14 trying to give us as much information. But  
15 right now, I just want to have you answer  
16 the specific question as to what medications  
17 the psychiatrist had prescribed at that time  
18 or for what condition?  
19 A. I have no idea. I would have  
20 to check on that. He goes up and down.  
21 Ever since I was hospitalized. I've been  
22 seeing him like once a month.  
23 MR. YOUNG: Okay, your answer  
24 is you don't know, so that's fine.  
25 They'll get his records. They'll

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2 find out that way.

3 Q. At the time of your arrest,  
4 where were you?

5 A. Home.

6 MR. YOUNG: Listen to the  
7 question again. At the time of your  
8 arrest.

9 Q. At the time of the arrest when  
10 you were arrested in the Village of Sleepy  
11 Hollow, where were you physically?

12 A. On the street in Beekman  
13 Avenue.

14 Q. Is that in front of the Sleepy  
15 Hollow Police Department?

16 A. Yes.

17 Q. How did you come to be in front  
18 of the Sleepy Hollow Police Department that  
19 night?

20 A. Well, I received a phone call  
21 from Detective Jose Quinoy in my personal  
22 cell.

23 MR. YOUNG: Okay, that's your  
24 answer.

25 Q. I thought, perhaps, you were

18

1 M. GOMEZ

2 saying something else, so.

3 You said that you received a  
4 call from Detective Jose Quinoy at that  
5 time?

6 A. Yes.

7 Q. That was on your personal cell  
8 phone?

9 A. Yes.

10 Q. Now, what was your cell phone  
11 number at that time?

12 A. I change it after that. It was  
13 914 -- I'm forgetting everything. 914 -- I  
14 can't remember now.

15 MR. YOUNG: We can leave a  
16 blank in the transcript.

17 MS. SHERVEN: We'll leave a  
18 blank in the transcript for you to  
19 fill that in or I'll ask you to  
20 please provide your telephone number  
21 at that time to your attorney so that  
22 it can be provided to us.

23 A.

24 Q. Approximately, what time was it  
25 that you received a phone call from

1 M. GOMEZ

2 Detective Quinoy?

3 MR. YOUNG: Off the record.

4 (Off-the-record discussion.)

5 MR. YOUNG: This is a Qualified  
6 Immunity Deposition, and I think  
7 there are parameters to the  
8 deposition.

9 The Defendants have already had  
10 two extensive days of deposition  
11 testimony in the form of a 50-h  
12 Hearing, so there's no secret as to  
13 what happened here.

14 I just ask that Counsel be  
15 aware of the parameters of this  
16 deposition and confine her inquiry to  
17 within those rules.

18 Q. Approximately, what time did  
19 you receive a phone call from Detective  
20 Quinoy?

21 A. Well, I received the first  
22 phone call about -- I was with my daughter  
23 Bridget.

24 MR. YOUNG: Hold on. Hold on.  
25 The only question here is what time.

20

1 M. GOMEZ

2 She didn't ask you who you were with.

3 A. Oh, okay. Well, the first call  
4 I didn't get. The second one it was about  
5 9:45, around there, approximately.

6 Q. The second phone call did you  
7 actually speak with Detective Quinoy?

8 A. Yes, I did.

9 Q. Were you at home at that time?

10 A. Yes.

11 Q. What did you say to Detective  
12 Quinoy during that phone call?

13 A. No. He started talking first.  
14 He stated to me.

15 Q. All right. What did Detective  
16 Quinoy first say to you, since you said that  
17 he spoke first?

18 A. Oh, Mario, I needed to talk to  
19 you. I heard that you wanted to talk to me.  
20 And I said, well, that's how the whole thing  
21 -- I said, okay, Jose, 'cause I call him by  
22 Jose, because he was my neighbor for years  
23 and personal friend of the family.

24 So, the bottom line is to make  
25 a long story short he said, I approach him



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about rumors that I heard that he was going out with my daughter. Keep going?

Q. Is there more? Did you want to add something to that?

MR. YOUNG: Are you asking him for the first sum and substance.

MS. SHERVEN: I'm asking him for the first portion of this conversation.

MR. YOUNG: The first portion, okay.

Q. Was there anything else during that first --

A. No. Basically, it was all one big conversation.

Q. Okay, tell me the sum and substance then of that conversation?

A. Okay. From there, we started talking. And I told him, you were a personal friend of the family, and I know your wife. I know your kids. For a very long time, you were a neighbor here, and I heard that you're going out for drinks and to bars with my daughter, not with people,

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M. GOMEZ

but by yourself and her.

And then he said, oh, those are the two Irish mother fuckers. He say that to me in Spanish. That Lieutenant Hayes and Michael Hayes are envious of me and are always talking shit about me.

And then I told him, well, that's besides the point. 'Cause he wanted to know he told me. And I said that's besides the point. You know, I'm not going to give you that information.

Then he told me, oh, you know, your daughter was a bartender. I said, no, she was not a bartender, but what does that have to do with it. So, he kept going on, and then he tells me, he tells me that I told him -- hold on a minute. He tells me, oh, don't worry about it. And I say, I have to worry about it, because your wife already have problems and fights in the Village of Sleepy Hollow with all women because of you dating her, and I have to worry about it.

And then he tells me -- there's a piece that I'm missing, and I'm trying to

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remember. To make a long story short, he told me -- I told him, I said, Jose, also, by the way, I heard that you said that before you were switching shift, you said to all the police officers on duty before you were going out, that you were going out with my daughter. And why not, when I get paid for food and drinks, why not. I have to take that chance.

And I told him that was very bad. I told him, you know, a guy don't do that. You know, and that's what I told him. And then he got upset, and he told me, well, let me tell you. Your daughter's twenty-one years old, and you're not going to tell me what to do with your daughter.

And then I told him, hey, how can you tell me that when you know me for so many years, okay, and you were a personal friend of the family. You've been at my fortieth birthday party. You know my daughter since she's twelve, thirteen years old, ten. How can you tell me that? How can you be such an asshole. You know, I

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don't know. I forgot what I said really. He told me, well, you're not going to tell me what to do with your daughter. If you are machito, he told that to me in Spanish. If you are macho, you got cojones which means balls. If you're a macho guy and you have balls, come down and meet me in front of the station. That was the end of the story.

Q. Approximately how long was this phone conversation?

A. About, I mean I was in my bedroom. My daughter was in the living room.

Q. But approximately how long?

A. About five minutes, six minutes, seven minutes. I can't really -- no longer than eight minutes.

Q. At any point during this conversation with Detective Quinoy, did he make any threats towards you?

A. Not that I can remember, no.

Q. At any point during this conversation with Detective Quinoy, did you

1 M. GOMEZ

2 make any threats towards him?

3 A. No, I did not, no.

4 Q. Did you say to Detective Quinoy  
5 that you were going to "Kick his fucking  
6 ass"?

7 A. No. No, I did not.

8 Q. Why didn't you just hang up the  
9 phone during the conversation?

10 MR. YOUNG: I'm going to object  
11 to the form of that question.

12 Q. During this telephone  
13 conversation, why not just hang up the phone  
14 if you didn't want the conversation to  
15 continue?

16 MR. YOUNG: I'm going to object  
17 to that question again. We're here  
18 for factual -- this is -- it's an  
19 argumentative question. I don't  
20 think it has any part in a  
21 deposition.

22 MS. SHERVEN: Counselor, I mean  
23 the Federal rules apply. I can ask  
24 him any question. If you object to  
25 the form, I'm happy to rephrase the

26

1 M. GOMEZ

2 question.

3 MR. YOUNG: Could you rephrase  
4 the question.

5 MS. SHERVEN: But otherwise I  
6 expect that you will not be directing  
7 him not to answer.

8 MR. YOUNG: Well, I'm objecting  
9 to the form of that question.

10 Q. During this conversation, why  
11 didn't you just hang up the phone and put a  
12 stop to the conversation?

13 A. The reason why is because he's  
14 a man that I knew way before he was a police  
15 officer. I know his whole family. I know  
16 his wife's family.

17 MR. YOUNG: Hold on. Hold on.  
18 Let's not go too broad. The question  
19 why didn't you just hang up?

20 A. He was dealing about my  
21 daughter. I know already his wife with  
22 personal fights with all the women, and I  
23 was trying to avoid that to happen.

24 Q. When you hung up the phone with  
25 Detective Quinoy, what did you do next?

1 M. GOMEZ

2 A. I started getting dressed, and  
3 that's when my wife arrived. Bridget had  
4 called my wife.

5 Q. Why did you start getting  
6 dressed?

7 A. To go to the police station and  
8 see, to talk to him and settle the  
9 situation.

10 Q. Why didn't you just stay home  
11 and let the situation blow over?

12 A. Because I had already did that,  
13 Counselor, two weeks before that, and the  
14 situation could carry on.

15 Q. Did Awilda try to stop you from  
16 leaving the house?

17 A. She came. She was in her  
18 friend's house, neighbor's.

19 MR. YOUNG: Hold on. Hold on.

20 She didn't ask you where she was.

21 Simple question. Did she try to stop  
22 you from leaving the house?

23 A. Sorry. Okay, no, we spoke. I  
24 don't remember if she told me to stay or go.  
25 We made an agreement to go together and talk

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1 M. GOMEZ

2 to Quinoy together as a family.

3 Q. When you say as a family, do  
4 you mean just you and Awilda or some your  
5 children as well?

6 A. No, just me, parents.

7 Q. Did you actually go to the  
8 police station together in the same vehicle?

9 A. Different vehicles.

10 Q. Why did you take different  
11 vehicles?

12 A. I have no idea, Counselor. It  
13 just came up that way. I went down first,  
14 and then she came after me. She was talking  
15 to Bridget a little bit, and it was one of  
16 those things I can't explain.

17 Q. Approximately how long was the  
18 drive from your home to the police station?

19 A. Two minutes, two. It's the  
20 next town over.

21 Q. When you arrived at the police  
22 station, did you see anyone outside of the  
23 police station?

24 A. Yes.

25 Q. Who did you see?

M. GOMEZ

A. Detective Quinoy and Officer Michael Gasker.

Q. Did you know Officer Gasker prior to the date of your arrest?

A. No.

Q. When you got to the police station, where did you park your car?

A. Legally parked, I find a parking spot. I park, and it was about five, seven feet away from the main entrance of the police station.

Q. When you first saw Detective Quinoy, where was he physically located?

A. He was standing right in the sidewalk right in front of the door of the police station.

Q. Is there a sidewalk in front of the police station?

A. Yes.

Q. Approximately how close is that sidewalk to the entrance of the police station?

MR. YOUNG: Okay, if you can answer the question. How close is

M. GOMEZ

the sidewalk to the door?

Q. How close is the sidewalk to the door.

A. Where he was standing to the door?

Q. Right.

A. About from here to the main -- five feet, maybe, seven feet away.

Q. The main sidewalk I'm guessing in front of on the block in front of the police station; am I correct in that description?

A. Well, here's the sidewalk. Here's the street, Beekman Avenue.

Q. So, there was a sidewalk running parallel to the street?

A. Yes.

Q. Is there also a sidewalk leading into the police station, kind of like perpendicular? Or I'm trying to get a picture of what the front of the police station looks like.

A. You're talking about a little alleyway they have?

M. GOMEZ

Q. Is there a little sidewalk?

A. No, he was not standing there.

He was standing in the main street right facing the street in front of the door of the Police Department.

Q. Because you had said he was in front of the door. You don't mean that he's physically in front of the door?

A. Not physically in front of the door. He was on the sidewalk. I could say that this is the sidewalk. I'm standing here, and the front door is a little bit you know where you were sitting, waiting.

Q. Unfortunately, the record's not going to be clear as to that description.

A. I would say ten feet away, ten feet away. The main door is ten feet away from where he was standing.

Q. Just so the record's clear, Detective Quinoy when you first saw him was standing approximately ten feet away from the front door?

A. Eight, ten, I'm not sure, maybe, a little closer.

M. GOMEZ

Q. Approximately that distance from the front of the door, but on the actual sidewalk that runs parallel to the street?

A. On the sidewalk, right.

Q. Where was Officer Gasker in relation to Detective Quinoy when you first got to the police station?

A. They were both standing together. Officer Gasker was standing next to him.

Q. When you first saw them, what happened next?

A. Parked the car. My wife was parked right -- she couldn't find a parking space, so she left the car running, and she was parked in the street right parallel to me. So, she was right next to me. I did park legally. I had a legal parking space.

I parked the car. Shut the car off, and I came out of the car. And I was expecting my wife to come out, also. She was out already of the car, and we were going to talk to Quinoy.



1 M. GOMEZ

2 Q. After you and your wife parked  
3 your cars, did you have a conversation  
before speaking at all or having any  
interaction with Detective Quinoy?

6 A. Are you referring my wife and  
7 I?

8 Q. You and your wife.

9 A. When we were already parked  
10 you're saying?

11 Q. Right, after you parked your  
12 cars, did you speak with her at all?

13 A. No. I didn't get the  
14 opportunity. No, we had no chance.

15 Q. When you got out of your car,  
16 did you have anything in your hands?

17 A. No.

18 Q. Were you carrying anything on  
19 your person?

20 A. No. My keys, my wallet, and  
21 some personal items, some personal things.

22 Q. When you got out of the car,  
23 did you close the car door?

24 A. The car was parked. I put it  
25 in drive. I shut the engine off, and I had

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1 M. GOMEZ

2 the keys in my pocket.

3 MR. YOUNG: You put it in what?

4 A. Sorry. I park. Put it in  
5 park. Shut the engine off. Put the keys in  
6 my pocket, and I stepped outside the car,  
7 and I was standing right next to my car.  
8 That's it.

9 Q. Did you close your car door  
10 though after you exited?

11 A. Yes, it was. Yes, the car was  
12 parked legally in a legal parking space.

13 Q. When you exited your vehicle,  
14 did you say anything to Detective Quinoy or  
15 Officer Gasker at that time?

16 A. No.

17 Q. Did either of them say anything  
18 to you?

19 A. Yes, Detective Quinoy.

20 Q. What did Detective Quinoy say.

21 A. Police, don't move. Don't  
22 fucking move, because he was cursing. Put  
23 your fucking hands up in the vehicle. And  
24 he came charging, running towards me.

25 Once he got to me, he banged me

35

1 M. GOMEZ

2 against the car when I had already turned  
3 around.

4 Q. I'm going to stop you. Right  
5 now, I just asked you what he had said.

6 A. All right.

7 Q. Did Detective Quinoy say  
8 anything else at that time other than what  
9 you've just told us?

10 A. No.

11 MR. YOUNG: Before there was  
12 contact you mean?

13 MS. SHERVEN: Before there was  
14 contact. I'm talking about the first  
15 thing he said.

16 Q. Did Officer Gasker say anything  
17 to you at that time?

18 A. No.

19 Q. Were there any other police  
20 officers or civilians in the area other than  
21 you, your wife, and the two police officers?

22 MR. YOUNG: That he saw?

23 Q. That you saw?

24 A. That I saw, no, that's it.

25 Q. When Detective Quinoy said,

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1 M. GOMEZ

2 don't move, to put your hands up, what, if  
3 anything, did you say to him?

4 A. I had my hands up on the  
5 vehicle. He was already pushing me and  
6 hitting me, so I had my hands up on the  
7 vehicle, and I just slightly turned around  
8 and said, hey, I thought we were going to  
9 talk. And that's when he boom he hit me  
10 right here in the head with the cuff. He  
11 had a cuff in his hand.

12 MR. YOUNG: Indicating the left  
13 side of the head.

14 Q. What did you say, though?

15 A. Hey, I thought we were going to  
16 talk.

17 Q. Did you say anything else other  
18 than, hey, I thought we were going to talk?

19 A. No. That's the only thing that  
20 I said. That's pretty much it.

21 Q. During these initial moments,  
22 did your wife say anything to anyone?

23 A. No. She was just standing  
24 right a little bit away from next to me, a  
25 little bit behind, maybe, two, three feet

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M. GOMEZ

1 away.

2 Q. When Detective Quinoy said,  
3 don't move, to put your hands up, what, if  
4 anything, did you physically do?

5 MR. YOUNG: Again, that's not  
6 all he said. You're leaving out some  
7 expletives but that's okay. Can you  
8 read back the question. I'm sorry.  
9 (Whereupon, the reporter read  
10 back the requested material.)

11 A. I put my hands up on the  
12 vehicle.

13 Q. Where on the vehicle did you  
14 put your hands up?

15 A. Well, I have a truck, so it's  
16 kind of tall, so I had my hands up. It's  
17 not -- so, I was not actually on the  
18 driver's door, on the second door in the  
19 passenger side door, but on the driver's  
20 side.

21 MS. SHERVEN: Can you read that  
22 back, please.

23 (Whereupon, the reporter read  
24 back the requested material.)  
25

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M. GOMEZ

1 MR. YOUNG: You mean the rear  
2 door.

3 A. The rear door. I'm sorry. Not  
4 the passenger's side. The passenger's side  
5 on the rear door behind the driver's seat.

6 MR. YOUNG: Indicating that  
7 your hands were above your head.

8 THE WITNESS: Yes. I had them  
9 on the vehicle.

10 Q. Did you have your hands  
11 outstretched, or were they like in a fist or  
12 some other position; if you can?

13 A. I mean they were --

14 MR. YOUNG: Indicating flat  
15 hands.

16 A. Yeah, flat hands, flat hands.  
17 I didn't make any fists or any motion of,  
18 you know.

19 Q. At the time that you put your  
20 hands up in the manner that you've  
21 described, which direction were you looking  
22 in?

23 A. Well, I had my hands up,  
24 looking away from -- he's on my back, okay.  
25

M. GOMEZ

1 And he was pushing me. He was banging me.

2 MR. YOUNG: Wait. The question  
3 is: Where were looking when you put  
4 your hands up?

5 A. Sorry. Yes, I had the hands up  
6 on the vehicle, and I was looking the other  
7 way, and he was behind me.

8 MR. YOUNG: Indicating you were  
9 looking at the vehicle, your car.

10 THE WITNESS: Exactly, yes,  
11 yes, yes.

12 Q. Did you see Detective Quinoy or  
13 Officer Gasker approach you?

14 A. Well, of course, I did. I saw  
15 mainly Detective Quinoy. He was charging to  
16 me towards me.

17 Q. How were able to see them? If  
18 you're looking in the direction in front of  
19 you, how were you able to physically see  
20 them.

21 MR. YOUNG: As I understand the  
22 testimony, he saw them running to him  
23 before he --

24 MS. SHERVEN: -- Counselor,  
25

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M. GOMEZ

1 with all due respect.

2 MR. YOUNG: Because you're  
3 confusing -- with all due respect  
4 you're confusing the record. We can  
5 go back and read this again, because  
6 it is clear to me that before that  
7 time happened -- if you want to go  
8 back because, look, I looked at the  
9 50-h Hearings that you did for two  
10 days, and those two records are a  
11 mess, because you kept going back and  
12 asking the same questions over and  
13 over again. I don't mean to get  
14 personal, but he already testified  
15 that as soon as he got out of the  
16 car.

17 MS. SHERVEN: Counselor, I'm  
18 going to stop you. I don't  
19 appreciate the fact that you've  
20 interrupted me and you're also --

21 MR. YOUNG: -- because you're  
22 messing up the record.

23 MS. SHERVEN: Excuse me,  
24 Counselor.  
25

1 M. GOMEZ

2 MR. YOUNG: Excuse me.

3 MS. SHERVEN: Would you please  
stop interrupting me when I'm  
speaking. You've interrupted me  
several times now. I really don't  
appreciate that.

8 MR. YOUNG: No, I have not. I  
like a clear record.

10 MS. SHERVEN: And the fact is  
you're doing speaking objections, and  
it's completely inappropriate in this  
matter.

14 MR. YOUNG: You're not making a  
clear record. We can go back, and  
the reporter can read what he's  
already testified to if you don't  
understand. And I'm not doing a  
speaking objection. If you don't  
understand how he saw these men,  
okay, we can go back and read his  
answer, because it's very clear how  
he saw those men. He's already  
testified to.

25 MS. SHERVEN: No. I can ask

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1 M. GOMEZ

2 any questions that I want to.

3 MR. YOUNG: You cannot ask the  
same questions three or four times.

5 MS. SHERVEN: I'm asking him a  
specific question as to how he saw  
the men.

8 MR. YOUNG: Okay, go ahead.  
Answer that question. How did you  
see the men?

11 Q. How did you physically see the  
police officers at the time?

13 A. I saw the police officers  
before I put my hands -- he came -- we got  
to go back a little bit, Counsel, hold on.  
I'm not trying to make this long, but I got  
to explain to you.

18 I come and I park my car. I  
get out of the vehicle. When I park my car,  
Detective Quinoy and Police Officer Michael  
Gasker was standing right in the sidewalk in  
front of my vehicle.

23 I got out of the car, he starts  
running towards me, charging. He tells me,  
25 don't fucking move. Police. Don't move.

1 M. GOMEZ

2 Put your fucking hands up on the car.  
3 That's exactly what I did. I saw him. He  
4 was already I had already saw him charging  
5 me. That's how I tell you that I saw him.

6 Q. Was Officer Gasker also running  
7 in the manner that you've described?

8 A. I don't remember. The only one  
9 that I really concentrated was on Detective  
10 Quinoy. I don't know if he was running or  
11 he was standing, or if he even came walking.

12 Q. When you saw Detective Quinoy,  
13 was he holding anything in his hands?

14 A. I think he was holding either  
15 cuffs, or he was holding something, or the  
16 radio or something, because when he hit me  
17 in the head, it was with something hard.

18 MS. SHERVEN: I move to strike  
19 the portions that are not responsive.

20 Q. Did you see anything in  
21 Detective Quinoy's hands?

22 MR. YOUNG: As he was running  
23 to him?

24 Q. As when you first saw him until  
25 the time that you had physical contact?

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1 M. GOMEZ

2 A. Yes. He had I believe the  
3 cuffs in his hands.

4 Q. In which hand did he have the  
5 cuffs that you've described?

6 A. I'm going to assuming it had to  
7 be --

8 MR. YOUNG: No. No. Do not  
9 assume. If you recall, you recall.  
10 If you don't, you don't.

11 A. I don't know what hand he had  
12 it, but when I got hit, it must have been  
13 with his left hand. Because I got hit in  
14 the left side of the head when I was turning  
15 around asking him, I thought we were going  
16 to just talk.

17 MS. SHERVEN: I move to strike  
18 the portions that are nonresponsive.  
19 Just listen to my question.

20 A. No. That was my answer,  
21 Counselor. When I tell you something you  
22 don't like, you --

23 Q. -- but I asked you specifically  
24 which hand, okay.

25 A. Okay. That's all right.

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MR. YOUNG: Here's the thing. You don't have to think out loud before you give us an answer, which is what you're doing. You answer was left hand, but you thought out loud for a minute before you gave an answer. Think to yourself, and then give an answer if you can.

THE WITNESS: Okay.

Q. Did you see Officer Gasker holding anything in his hands when you first saw him?

A. No.

Q. You've already described the fact that you had your hands up on the car, and Detective Quinoy is coming towards you from behind your back? Am I describing that correctly; that your hands are up on the car, and he's coming towards you but your back is to him?

A. No, it's not, Counsel. No. Let me go back a little bit.

MR. YOUNG: No. She'll rephrase the question.

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Q. At the time that Detective Quinoy is coming towards you in the manner that you've described, are you facing the vehicle, or do you turn to face the vehicle at some point in time?

A. I get out of the car.

MR. YOUNG: See, this is what I want to avoid, because when I looked at the 50-h, it's four times as long as it should, because you keep coming back and asking him the same questions over and over. And I'm not going to let him answer these questions three and four times. He's already testified to you, and it's very clear.

MS. SHERVEN: Counselor, I mean the record you're making is just completely inappropriate.

MR. YOUNG: No, it's very appropriate. You keep asking him the same questions. What don't you understand about the previous answer? I'm not going to let him answer the

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questions three and four times, because you know that makes a very muddy record.

MS. SHERVEN: Is there some reason why you cannot allow me to finish speaking before you interrupt me?

MR. YOUNG: No. You had finished speaking.

MS. SHERVEN: No, I had not.

MR. YOUNG: Go ahead.

MS. SHERVEN: I'm trying to ask very specific questions.

MR. YOUNG: But you're asking them again and again.

MS. SHERVEN: Okay, apparently you cannot stop from interrupting me. Do I need to call the Judge and tell the Judge that you're interrupting me.

MR. YOUNG: If you feel the need to call the Judge, and we need to get somebody here to sit here, so you don't ask the same question three

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M. GOMEZ

and four times, that's up to you.

But I'm giving you a hundred percent latitude to ask the questions. But my concern is if you keep asking him, well, I don't understand why this. I don't understand this. If you don't understand it, I don't know what to say, but I'm letting him answer all of your questions but just not multiple times.

MS. SHERVEN: I would appreciate it again if you do not interrupt me in the future. I can't see anything that's more disrespectful than the fact that you keep interrupting me while I'm trying to speak or ask the question. So, I would please ask you to stop interrupting me.

MR. YOUNG: Are you finished?

MS. SHERVEN: Yes, I'm finished.

MR. YOUNG: Okay. I have a



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right to make my objections on the record whether they are to form or asked and answered, and I will continue to do that.

MS. SHERVEN: And I'm not stopping you from making your objection. I do not appreciate speaking objections or the fact that you are interrupting me. That's what I'm asking you not to do.

MR. YOUNG: Continue.

Q. During the time that Detective Quinoy is running towards you in the manner that you've described, do you move at all from the position that you've described that you were in, that being with your hands up against your vehicle facing the vehicle?

A. No. Once he say put your hands up on the car and turnaround, and that's exactly what I did. Then what I did -- he came and he banged me, pushed me.

MR. YOUNG: You've answered the question.

Q. My question though was just if

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you moved at all during that time that he's coming towards you, but you had had your hands --

A. -- no, when I moved he was already on top of me. You know, I don't know if he was running.

MR. YOUNG: Okay, you've answered the question I think. Has he answered the question, Counselor.

Q. Is it your testimony that you did not move --

A. -- no, I did not move.

MR. YOUNG: Wait. Wait. She's not finished.

Q. Is it your testimony that you did not move until the time that you felt contact from Detective Quinoy?

A. Yes.

Q. Where did you physically feel contact?

A. Well, when he first came in, he banged me against -- he banged me, pushed me like tapped me right against the car, like, boom.

M. GOMEZ

Q. I'm going to stop you, though, just so that you can tell us with what portion of his body he pushed you or banged you as you described it?

A. I have no idea. I guess you know when you tried to tackle somebody and you push somebody, I guess it was both hands. I know he pushed me. I couldn't exactly tell you what hand or what elbow.

Q. Did you see that?

A. I felt it. He banged me.

Q. My question, though, is if you saw it? Saw how he pushed you against the car?

A. No, I couldn't see it, because I was facing the other way. I had my head turned.

MR. YOUNG: That's fine.

You've already said that.

Q. Does your body at that time make contact with your car?

A. Yes.

Q. What portion of your body makes contact with the car?

M. GOMEZ

A. My chest and my right part of the elbow because --

Q. Your tapping your shoulder, but you said elbow.

A. Not my elbow, my shoulder. Sorry about that. Getting kind of nervous here. Got to relax.

Q. So, your chest and your right shoulder make contact with your car, your truck excuse me?

A. Yes.

Q. At that point in time, did you say anything?

A. Yes.

Q. What did you say?

A. Hey, I thought we were going to talk. I thought that you brought me here, because we were going to talk. That's it.

Q. Did he say anything in response?

A. He was cursing here and there. He was yelling. He was yelling. He was really making a -- I can't really tell you exact words, but I know he was cursing

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saying. First of all, when he came to arrest me, put your fucking hands up on the car. Turn around. Don't fucking move.

I slightly turned my head, just to turn, I thought we were going to talk. That's when, boom, he hit me with that -- I don't know if he had the cuffs in the hands, but I know it was something hard. He hit me with his left-hand in the left side of the head.

MR. YOUNG: All right, now, look, this is the fourth time that we've gone over this. So, I don't know whose fault it is, whether the question's being asked repeatedly or you're just offering additional information, but that's the fourth time that you were hit in the left side of your face with something hard.

So, I'm going to just instruct you to just answer her questions and don't continue to elaborate.

THE WITNESS: Right, okay.

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Sorry.

Q. What part of the left side of your head did Detective Quinoy make contact with? Can you describe was it near your ear, is it closer to your face? Can you describe that the best that you can?

A. A little bit over the side of my head, here.

Q. You're indicating above your left ear?

A. Above the left ear, yes, right.

Q. What happened next after you feel the hit in the left side of your head, what's the next thing that happens?

A. I turned around, and I defended myself.

Q. When you say you turned around, did you turn your whole body around or just your head or something else?

A. I turned around a little bit, after I got banged against the vehicle. I got hit on the head. I was being assaulted. So, I decided I needed to defend myself.

Q. What did you do to defend

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yourself?

A. I took a few punches.

Q. How many punches,

approximately?

A. About two or three.

Q. Who did you throw the punches at; Detective Quinoy or Officer Gasker?

A. No, Detective Quinoy. I never touched Officer Gasker. Right.

Q. Did you physically make contact with Detective Quinoy?

A. I believe I did, yes.

Q. On which portions of his body did you make contact?

A. I believe it was somewhere around the left part of the forehead or the left eye, something like that. I'm not sure.

Q. Did you make contact with any other part of his body?

A. No, not that I remember. No.

MR. YOUNG: You know can I just take a two-minute break here. I just have to make a phone call.

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(Whereupon, a recess was taken.)

MR. YOUNG: Again, to continue my earlier comment about the scope of the deposition, here. Counselor's familiar with the rules. This is a Qualified Immunity Deposition, and it is here for a limited purpose.

We've been here for it's 11:15. This was scheduled to start at 10:00 o'clock, and we're nowhere near the issues for why we are here.

I ask Counselor to restrict her questions to the purpose of the deposition. In the event that she continues to go beyond that scope, which I think she is doing right now, at the appropriate time we will seek sanctions, and we will also seek to have that portion of this record which we has been improperly entered into stricken for all purposes. Okay, let's go.

MS. SHERVEN: Counselor, the

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record does speak for itself, and we are entitled, the Defendants are entitled to ask the appropriate questions that are being asked today as to the circumstances surrounding the arrest at issue, and the deposition is a proper deposition pursuant to the Qualified Immunity ea purpose today.

Q. At the time that you struck Detective Quinoy in the manner you described, did your wife say anything?

A. Yes. She was already yelling.

Q. What was she saying?

A. No. Stop. Things like that. I can't actually. I can't, but I know she was yelling.

Q. Did Officer Gasker say anything during that time?

A. No, not I don't remember hearing Officer Gasker saying anything at all, but my wife was yelling.

Q. At this point in time, did you see anyone else in the vicinity whether a

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police officer or civilian?

A. No, not that I know. There might have been other people, but at that time I don't remember seeing.

MR. YOUNG: Well, her question is did you see the other people. You said, no.

A. Okay, no.

Q. What happens next? I'm talking about after the time where you've described that you were throwing punches at Detective Quinoy. What happens next?

MR. YOUNG: I'm going to object to the form of the question. I ask that you rephrase it. Throwing punches at Detective Quinoy is your own terms. He did not use those terms. He did say that he did punch Officer Quinoy two or three times.

MS. SHERVEN: Counselor, with all due respect, you're again making speaking objections. You're free to

--

MR. YOUNG: You're putting

M. GOMEZ

words in his mouth.

MS. SHERVEN: No, I'm not. I was using the same language that he had used; however, your objections are inappropriate. If you want to say form objection, fine. I'll rephrase the question.

MR. YOUNG: Form objection.

MS. SHERVEN: But to go into detail about the question and in the manner in which I'm phrasing it, I object to the way in which you are objecting.

MR. YOUNG: Form objection.

Q. What happened next?

A. Well, I was defending myself from the assault by Detective Quinoy, and I did hit with no more than two punches, three at the most. And he tackled me down. We started struggling, and at that time I heard Detective Quinoy say tase him. That's it.

Q. When you say he tackled you down, can you describe in the manner in which this --

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A. -- well, Counselor, we were wrestling. I can't describe the manner which arm was holding what. We were both grabbing each other very hard, struggling. We fell to the floor. And, no, wait a minute. We were still struggling on the car, and he said tase him. And I got my first tase while I was standing up. That buckled my legs, and I fell. I got tased in the back of the neck.

Q. Following the time when you said that you were defending yourself, you initially said that he tackled you, and then you said that you were wrestling. Just so the record is clear what happened next after you were defending yourself in the manner that you described?

MR. YOUNG: Wait a minute. I mean we're going over the same thing. We can read it back, because you're asking the same question again and again.

MS. SHERVEN: No. I'm trying to be very clear as to what happened

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M. GOMEZ

in which order of events, and it's not clear.

Q. So, I'm asking just what happened, just tell me what happened immediately after you were punching or defending yourself in the way you've described? What happened then, and then we'll take it frame by frame, so that we can understand that?

MR. YOUNG: Can we go back several questions and I think the same question was asked. I just want to see what the answer is in case it's not on the record, maybe I missed something.

(Whereupon, the reporter read back the requested material.)

Q. When you said that Detective Quinoy tackled you, did you physically fall to the ground at that time?

A. Yes.

Q. What was it that actually caused you to fall to the ground at that time; his tackling you as you described or

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something else?

A. Well, he's tackling and also the taser I got, because we were struggling that's when I feel the electricity behind my neck, and I fell. And I think since I was holding onto him, we both fell at the same time.

Q. Did you see who was holding the taser at that time?

A. It was Officer Gasker.

Q. Did Officer Gasker say anything at that point in time?

A. No, not that I remember. No, not that I recall, no.

Q. Did you say anything to Officer Gasker at that time?

A. No.

Q. Did you say anything at that moment in time?

MR. YOUNG: At the moment he was being tased?

A. No.

MR. YOUNG: Go ahead.

MS. SHERVEN: Again, you can't

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keep making the speaking objections. I mean I'm trying to be clear.

MR. YOUNG: I'm trying to understand your question. You said at that time.

Q. At the time that you were wrestling with Officer Quinoy until the time that you fell to the ground, did you say anything?

A. No, not that I can remember. I heard in the background my wife yelling and screaming.

MR. YOUNG: Wait a minute. Did you say anything?

A. No. Sorry.

Q. Did your wife say anything during that time period that we're discussing?

A. Yes.

Q. What did your wife say?

A. Stop. Please. Don't. No. Stop. No. No. Things like that. You know, yelling. She was actually yelling from the beginning.

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M. GOMEZ

Q. During the time that you were wrestling like you described with Detective Quinoy, did he strike any portion of your body?

A. I have to say, yes.

Q. What portions of your body?

A. I can't really remember now, Counsel, but I know I was stricken. I almost got killed after that, what came after that.

MS. SHERVEN: Move to strike the portions that were not responsive.

MR. YOUNG: Concentrate on the question.

A. I can't remember what portions of the body. I know that he definitely hit me, yes.

Q. Did he hit you with his hands or some other part of his body?

A. At that time, with his hands. And I think he had the cuffs in his hands. I felt something very hard.

Q. On what portion of your body



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M. GOMEZ

1  
2 did he make contact with at this point in  
3 time?

4 A. I can't recall. We were  
5 struggling. It's very hard for me to go  
6 back now and describe exactly. I can't  
7 recall anyhow.

8 Q. Well, you just said a second  
9 ago that you thought he had the cuffs in his  
10 hands because you felt something hard. On  
11 what part of your body did you feel that?

12 MR. YOUNG: Could you read back  
13 the last question, because again  
14 we're not going to go through another  
15 50-h like we did the last time.  
16 We're repeating questions over and  
17 over. If you don't like the answer,  
18 you keep asking it.

19 (Whereupon, the reporter read  
20 back the requested material.)

21 Q. Do you recall what portion of  
22 your body you felt a hard object make  
23 contact with at that time?

24 A. At that time, no.

25 Q. Until the time that you fell

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1  
2 onto the ground, other than the taser that  
3 you described that Officer Gasker had, did  
4 he physically touch you in any way?

5 MR. YOUNG: Gasker.

6 MS. SHERVEN: Gasker.

7 A. Gasker, not that I know. I  
8 can't really recall.

9 MR. YOUNG: That's your answer.

10 Q. When you and Detective Quinoy  
11 fell to the ground in the way that you  
12 described, were you still wrestling at the  
13 time that you landed on the ground.

14 A. Yes. I was still defending  
15 myself trying to avoid from getting punched.

16 Q. After you and Detective Quinoy  
17 had fallen to the ground, what happened  
18 next?

19 A. I was already on the ground,  
20 like, facing down, and I felt some hard  
21 kicks, four hard blows in my ribs.

22 Q. Are you indicating your right  
23 side?

24 A. Yes.

25 Q. Now, if you're facing towards

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1  
2 the ground, where's Detective Quinoy's body  
3 in relation to you?

4 A. I guess next to me. To the  
5 left, to the right -- I don't remember.

6 Q. Did you see someone kicking you  
7 at that point in time?

8 A. I felt that. I think a voice  
9 coming in (noise) boom, boom. I know it  
10 wasn't Gasker. Another officer had come in.

11 MR. YOUNG: Hold on. You have  
12 to concentrate. You're going to have  
13 to do better. The question was: Did  
14 you see someone kicking you? She  
15 didn't ask you what you heard.

16 A. No, I didn't see the kicks.

17 MR. YOUNG: Fine. That's your  
18 answer.

19 Q. Do you know, in fact, that they  
20 were kicks versus punches? How do you know  
21 that it was someone kicking you as opposed  
22 to something else?

23 A. Because it couldn't be  
24 Detective Quinoy, because he was next to me.  
25 And we were actually holding onto each other

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M. GOMEZ

1  
2 and I felt the kicks on the right side, and  
3 the two, three kicks, hard blows in the  
4 ribs, on the right side of my ribs.

5 Q. Do you know who was kicking  
6 you?

7 A. Officer Ebel.

8 Q. Before your arrest, did you  
9 know Officer Ebel?

10 A. I seen him in down.

11 Q. You'd recognized him at some  
12 point in time that night?

13 MR. YOUNG: Hold on. Objection  
14 to the form of the question. Can you  
15 rephrase that.

16 Q. You said that you had seen him  
17 around town. Did you know him by name at  
18 that time?

19 A. No. No.

20 Q. How do you know it was Officer  
21 Ebel that was kicking you?

22 A. I'm trying to give a short  
23 answer.

24 MR. YOUNG: Okay.

25 A. I know it was Officer Ebel

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M. GOMEZ

1 because at no point in time during the  
2 incident I saw Gasker kicking me, so it had  
3 to be Officer Ebel.

4 Q. When did you first realize that  
5 Officer Ebel had arrived in front of the  
6 police station?

7 A. What do you mean in front of  
8 the police station?

9 Q. Well, how did you know that  
10 Officer Ebel was there?

11 A. When I turned around, when we  
12 were struggling -- after I got kicked and we  
13 were still struggling, and I turned around  
14 and I saw him.

15 Q. Do you know where Officer Ebel  
16 came from, whether it was inside the police  
17 station or somewhere else?

18 A. He came from inside the police  
19 station.

20 Q. How do you know that?

21 A. Well, I didn't actually see him  
22 in the police station because I never went  
23 inside the police station, but I know he was  
24 the desk officer that day.

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M. GOMEZ

1 Q. How do you know that he was the  
2 desk officer, though? Did somebody tell you  
3 this? How do you know that Officer Ebel  
4 came from inside the police station as  
5 opposed to a vehicle or something else?

6 A. Because there was no other  
7 police patrol vehicles in the area at that  
8 point. There was no lights going on or  
9 anything at all. So, most of them had come  
10 from inside the station.

11 Q. Did anyone tell you, whether it  
12 was your wife or someone else, that Officer  
13 Ebel came from inside the police station?

14 A. Actually, I don't recall,  
15 Counselor, but I know he came from inside  
16 the station.

17 Q. Do you know how Officer Ebel  
18 came to come outside from inside the police  
19 station?

20 A. No.

21 MR. YOUNG: Was that question  
22 do you know how he came outside?

23 (Whereupon, the reporter read  
24 back the requested material.)  
25

M. GOMEZ

1 Q. I'll rephrase the question. Do  
2 you know why Officer Ebel came from inside  
3 the police station to outside?

4 A. No.

5 Q. At the time that you felt the  
6 kicks in the way that you described, did you  
7 say anything?

8 MR. YOUNG: As he was being  
9 kicked?

10 Q. At that point in time, did you  
11 say anything?

12 A. It was fast. It was confusing.

13 MR. YOUNG: Woe, woe, woe, woe.  
14 Stop. Stop. Did you say anything  
15 when you were being kicked?

16 A. No.

17 Q. At that point in time, did you  
18 hear anyone saying anything?

19 A. Yes. Detective Quinoy, hey,  
20 hey, hit him. Hit him hear. Hit him there.  
21 Detective Quinoy. My wife's yelling and  
22 screaming in the background.

23 Q. Other than Detective Quinoy and  
24 your wife, did you hear anyone else say  
25

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M. GOMEZ

1 anything?

2 A. I think Ebel was saying  
3 something. What, I can't remember right  
4 now. He was also yelling, you know.

5 Q. At the point that you turned  
6 and you saw Officer Ebel, did you say  
7 anything?

8 A. No, not that I can recall at  
9 that point, no.

10 Q. Did anyone else say anything at  
11 that point in time?

12 MR. YOUNG: As he was turning  
13 to look to Ebel?

14 Q. As you turned and saw Ebel?

15 A. The only one talking, yelling  
16 and screaming was Quinoy yelling, hit this  
17 mother fucker here, there. Excuse me, but I  
18 got to say what he said. And Ebel was  
19 yelling also, and my wife's screaming in the  
20 background.

21 Q. When you turned and saw Officer  
22 Ebel, what was he saying?

23 A. I can't exactly recall,  
24 Counselor, because I can't. I know he was  
25

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M. GOMEZ

1 yelling, you know, but I can't recall.

2 Q. When you first saw Officer  
3 Ebel, did he have anything in his hands?

4 A. I think he had the taser, or he  
5 had a taser in his hands.

6 Q. When you turned and saw Officer  
7 Ebel, did you see where Officer Gasker was?

8 A. I can't recall. I know he was  
9 standing next to her, but I can't exact spot  
10 I can't remember.

11 Q. At that time when you saw  
12 Officer Ebel was standing close by, did you  
13 see anyone elsewhere, whether police officer  
14 or civilian?

15 MR. YOUNG: Other than the  
16 individuals?

17 Q. Other than the individuals that  
18 we've been talking about.

19 A. No, not that I remember. I  
20 couldn't see anybody else. I was --

21 Q. When you turned and saw Officer  
22 Ebel, what happened next?

23 A. That's when I said, here, this  
24 is a family matter. Here's my hand, cuff  
25

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M. GOMEZ

1 me. And I was faced down on the ground cuff  
2 me. This is a family matter. I didn't  
3 commit any crime. I'm a retired New York  
4 City Corrections Officer, but that's it.  
5 And --

6 Q. I'm going to stop you there  
7 before you go onto another, before you go  
8 onto something else.

9 When you said what you just  
10 told us that you described, where were your  
11 hands?

12 A. I had already -- I was faced  
13 down on the ground, and I had stand my  
14 hands.

15 Q. You're indicating that you're  
16 putting your hands behind your back, right?

17 A. Right, so they can cuff me.

18 MR. YOUNG: His hands and his  
19 armed stretched out in front of him.

20 A. Yes, stretched out, yes, and I  
21 was stretched out on the ground already.

22 Q. At that point in time, where  
23 was Detective Quinoy?

24 A. He was there, but I can't  
25

M. GOMEZ

1 really tell you exactly where. I have to  
2 see a video or something. He was still  
3 punching and kicking during that time, yes.

4 Q. Was Detective Quinoy still on  
5 the ground with you or --

6 A. No.

7 Q. -- or had he gotten to his feet  
8 at some point in time?

9 A. No, he was already up. No, he  
10 was already up.

11 Q. At what point in time did  
12 Detective Quinoy get up off of the ground?

13 A. I can't recall now. I know it  
14 was some --

15 Q. Where was Officer Gasker at the  
16 time that you put your hands back in the  
17 manner that you described and said what you  
18 told us?

19 A. He was standing a little bit to  
20 the left and a little bit away, two or three  
21 feet away from what I saw. I don't recall,  
22 because everything was moving very fast.

23 Q. At that time, was he making any  
24 physical contact with you?  
25

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M. GOMEZ

1 A. Not that I recall.

2 Q. At this point in time that  
3 you've been talking about, where was Officer  
4 Ebel?

5 A. He was the one that cuffed me,  
6 and he was actually -- he was the one that  
7 cuffed me. He was actually pulling my arms  
8 like almost up, like, when you're trying to  
9 break them. And at the same time he had his  
10 knees on my back and pulling my arms up, all  
11 the way up, like, when you're trying to  
12 break somebody's arm.

13 MS. SHERVEN: Move to strike  
14 the portion that's not responsive.

15 A. But that was my answer,  
16 Counselor.

17 MR. YOUNG: That's okay. It  
18 was responsive.

19 Q. During this time that we've  
20 been talking about when you're putting your  
21 hands behind your back, was Detective Quinoy  
22 making any physical contact with you?

23 A. Yes.

24 Q. What portions of your body did  
25

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M. GOMEZ

1 he make physical contact?

2 A. He was kicking me in my head.

3 Q. Did you see him kick you in the  
4 head?

5 A. Yes. I turned around, and the  
6 kicks were coming, and I -- I was already  
7 cuffed at that time and on the ground, and I  
8 can't do anything about it.

9 Q. What portion of your head did  
10 he actually make contact with?

11 A. Counselor, I must have got  
12 about thirty kicks in the head. I got kicks  
13 in all sides and angles. I can't really  
14 describe exactly at what point what portion  
15 I got kicked at. That was when it first  
16 started.

17 Q. Did Detective Quinoy make any  
18 other physical contact with you other than  
19 what you've described at this point in time  
20 that we've been discussing?

21 A. At this point in time, no, he  
22 was kicking me.

23 Q. Was he doing anything else?

24 MR. YOUNG: While he was

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M. GOMEZ

1 kicking him?

2 Q. At that point in time, what  
3 we've been talking about.

4 A. I don't know if he was doing  
5 something else with his hands. I don't  
6 know. I know I was down, faced down, and I  
7 saw his foot coming and kicking.

8 Q. Did Detective Quinoy say  
9 anything while he was kicking you in the way  
10 that you've described?

11 A. He was saying something. What  
12 I can't. I got to listen to a videotape. I  
13 can't remember now. He was -- all this  
14 yelling and screaming. My wife screaming on  
15 the other side.

16 MR. YOUNG: She didn't ask you  
17 about your wife.

18 A. You know what I mean.

19 MR. YOUNG: She didn't ask you  
20 about your wife.

21 A. I can't exactly recall what he  
22 was saying, but I know that he was yelling.

23 Q. Did you hear anyone else  
24 yelling or saying anything at that point in  
25

M. GOMEZ

1 time?

2 A. Ebel.

3 Q. What did Officer Ebel say?

4 A. Like, once again, Counselor, I  
5 can't remember exactly what he was saying.  
6 Oh, fuck. I know that I identified that he  
7 had my leg. I had got tasered in my spine  
8 quite a few times. Taser my head. That's  
9 when I was already cuffed. I was already  
10 cuffed on the ground. I got tased in the  
11 temple, and he put his knee on my neck, and  
12 he was choking me. And when I was choking,  
13 you tried to move. It wasn't that I was  
14 resisting. I was trying not to be choked.

15 And I said, I identified myself  
16 once again. This is the family issue. I  
17 didn't commit any crime. I'm a retired New  
18 York City Corrections Officer. He said,  
19 fuck New York City Correction, this is  
20 Sleepy Hollow Police.

21 MS. SHERVEN: Move to strike  
22 the portions that were nonresponsive  
23 to the question.

24 Q. Before you had your hands

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M. GOMEZ

1 physically cuffed, how many times did you  
2 feel a taser? I'm talking up until the time  
3 you were cuffed not afterwards.

4 A. I got tased about four or five  
5 times, but I would say four, three times,  
6 two or three times.

7 Q. So, two to three times before  
8 you were cuffed?

9 MR. YOUNG: You started four to  
10 five, and then you said three to four  
11 then.

12 A. No. No. Because it's  
13 confusing, because I got tased before and  
14 tased a lot after.

15 MR. YOUNG: The question is  
16 before you were cuffed, how many  
17 times.

18 Q. Before you were cuffed, I'm not  
19 talking about after?

20 A. I would say three to four  
21 times. It was definitely more than twice.

22 Q. Did you see who used the taser  
23 during those three to four times?

24 A. I know the first taser was  
25



M. GOMEZ

Officer Gasker, because he was the only one there, and I was struggling with Detective Quinoy.

MR. YOUNG: We've gone over this already.

Q. Not that portion. I know you told us that, but the other times, can you tell us who it was that you saw using the taser.

MR. YOUNG: Off the record.

I'm confused.

(Off-the-record discussion.)

Q. Just so the record is clear, the first taser you felt is while you were standing; is that correct?

A. Yes.

Q. Who was it that used that taser?

A. Officer Gasker.

Q. Now, you've just told us that there were three or four times that you felt the taser before you were cuffed. Is it fair to say that while you were on the ground, you felt the taser two to three

M. GOMEZ

times?

A. Yes.

Q. Did you see who it was that used the taser during those two to three times while you were on the ground?

A. No, because I was just trying --

MR. YOUNG: No. No, is the answer.

THE WITNESS: Sorry.

Q. Do you know who used the taser those two to three times?

A. I know that Officer Ebel had a taser in his hand, also, and Officer Gasker had a taser, also, and I guess Officer Ebel was the one that tasered me after that.

Q. Are you referring to in the same time period, or are you referring to now after you were cuffed? I'm confused.

A. No, we're talking about before I was cuffed.

Q. Before your cuffed?

A. No. Officer Ebel had a taser in his hands.

M. GOMEZ

Q. Do you know if he used the taser at that point in time before you were cuffed?

A. No. When I really noticed him tasing me was when I was already cuffed.

Q. We'll talk about that in a minute. At this time while you're on the ground before you're cuffed, did you know which officer it was that used the taser?

A. No.

Q. At any point in time did you see Detective Quinoy with a taser? I mean any point in time before or after you were cuffed?

A. He probably had the taser, and I don't recall seeing him with the taser.

Q. Before you were handcuffed, did you see anyone else in the vicinity other than the people you've already told us about?

A. At that time almost to the point, I know that I heard voices. I couldn't exactly tell you who it was, but I know they're was all the people already

M. GOMEZ

there in the area, in the vicinity on the sidewalks looking at that.

Q. Were there any other police officers in the area before you were cuffed other than the three that you've already told us about?

A. No.

Q. Now, at the point that you were handcuffed you told us that you felt a taser after you were cuffed. How many times did you feel a taser after you were handcuffed?

MR. YOUNG: This is total until they stopped?

Q. Total times after you were handcuffed?

A. After, this is after?

Q. After.

A. I believe I got tasered after more than before I was cuffed. And I got tasered about seven to eight times, approximately, nine times.

Q. Did you see who used the taser any of those times after you were handcuffed?

M. GOMEZ

1 A. Yes. I know definitely I saw  
2 Officer Ebel. He was the one that tased me  
3 in my back, in the spine. And the one in  
4 the sides of the temple. I couldn't recall  
5 because I was looking down, and I was  
6 getting kicked on this side, and they put  
7 the taser at the same time as I was getting  
8 kicked.

9 MS. SHERVEN: I move to strike  
10 the portions that are nonresponsive.

11 Q. I'm just asking you who you  
12 saw. Did you see anyone else use a taser  
13 after you were handcuffed other than Officer  
14 Ebel?

15 A. I know Detective Quinoy had a  
16 taser, also, but I just can't, you know, I  
17 just can't.

18 Q. Did you see anyone else use a  
19 taser at this time period that we've been  
20 talking about after you were handcuffed  
21 other than Ebel?

22 A. One thing that I want to say is  
23 that it was not just Ebel that was tasing  
24 me, but from what I recall, yes, Ebel was

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M. GOMEZ

1 the one that I saw, because I was turning  
2 and I know I was getting kicked, tased,  
3 punched at the same time, so it was hard for  
4 me.

5 Q. Right now I'm just asking if  
6 you saw anyone else?

7 MR. YOUNG: Did you see anyone  
8 tasing you at that moment other than  
9 Ebel.

10 A. At that moment, no.

11 Q. Now, I believe you just said,  
12 and we can read back the record if  
13 necessary, but I believe you just said that  
14 you saw Detective Quinoy with a taser; did  
15 you say that?

16 A. Yes.

17 Q. At what point in time did you  
18 see Detective Quinoy with a taser?

19 A. At the end, I would say the  
20 end.

21 Q. Did he use the taser?

22 A. I have no idea. I'm not going  
23 to say, yes. I'm not sure.

24 Q. On what portions of your body

87

M. GOMEZ

1 did you see Officer Ebel use the taser?  
2 This is after you were cuffed.

3 MR. YOUNG: I mean he's already  
4 -- you can answer it again but it's  
5 on the record.

6 A. On my back.

7 MS. SHERVEN: It wasn't  
8 responsive.

9 MR. YOUNG: He said back and  
10 spine.

11 A. On my back and my spine, and  
12 also I knew that he tased me in the back of  
13 the head, because he was the one on top of  
14 me. Like squatting on top of me, and I was  
15 faced down on the ground cuffed.

16 Q. Do you know if any other police  
17 officer used the taser at that point in time  
18 other than Officer Ebel? I know you said  
19 you saw Officer Ebel. Do you know, though,  
20 if any other police officer used the taser  
21 after you were handcuffed?

22 MR. YOUNG: Well, hold on.

23 You're asking him for the identity.

24 MS. SHERVEN: Yes, for the

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M. GOMEZ

1 identity.

2 MR. YOUNG: Because he already  
3 said somebody from the other side was  
4 tasing him.

5 Q. Do you know who?

6 A. No. I did not see him at the  
7 time, but I know I was getting tased more  
8 than once, so it couldn't be the same person  
9 tasing me in two different places.

10 Q. At any point in time did you  
11 learn who that person was?

12 A. No.

13 Q. After you were handcuffed other  
14 than the taser that you've described, did  
15 you see any police officer make physical  
16 contact with your body?

17 A. Are you talking about the three  
18 officers involved or Detective Gasker.

19 Q. Anyone, anyone, did you see any  
20 police officer make contact with you after  
21 you were handcuffed other than what you've  
22 said about the taser?

23 A. Oh, yes. Quinoy was -- I was  
24 faced down, and Quinoy was saying, get this

M. GOMEZ

1 mother fucker. Hit him. Hit him.

2 And then at one point Ebel  
3 stood up, okay, and he was kicking down,  
4 like, when you're trying to break a piece of  
5 wood. Then Detective Quinoy was kicking  
6 from the top of my head, like, when you're  
7 kicking a soccer ball.

8 MS. SHERVEN: I move to strike  
9 the portions that were not  
10 responsive.

11 Q. Other than Detective Quinoy or  
12 Officer Ebel did you see any other police  
13 officer make physical contact with you after  
14 you were cuffed and other than the tasers  
15 that you described?

16 A. No.

17 Q. Where was Officer Gasker during  
18 the time that you said that Detective Quinoy  
19 and Officer Ebel were kicking you?

20 A. He was there.

21 Q. And again he was in the  
22 vicinity, but where was he in relation to  
23 where you were? Was he close by?

24 A. Close by. Close by.

M. GOMEZ

1 Q. Was he making any physical  
2 contact with you?

3 A. Not that I can recall, no.

4 Q. Can you approximate for me how  
5 much time passed from the time you arrived  
6 at the police station, okay, and parked your  
7 car, until the time you were handcuffed?

8 A. Until the time that I was  
9 handcuffed. I would say four, four or five  
10 minutes, four minutes, five minutes, yeah.

11 Q. Approximately how much time  
12 passed during the time that you were  
13 handcuffed and what you've described with  
14 the police officers kicking you and using  
15 the tasers?

16 MR. YOUNG: Hold on. Let's  
17 have an end moment here.

18 Q. Until it stopped.

19 A. Until it stopped.

20 Q. Until it stopped.

21 A. That was longer. I would say  
22 that had to be from the time that I was  
23 cuffed until everything stopped, it had to  
24 be approximately ten minutes or twelve, and  
25

M. GOMEZ

1 maybe more. I don't know.

2 Q. During those ten to twelve  
3 minutes that you've indicated, where was  
4 your wife?

5 A. God, you asked me that  
6 question. I just remembered I was leaving a  
7 big part out.

8 During the time that I was on  
9 the ground, my wife was yelling and  
10 screaming. I saw her like in the back of my  
11 eyes running to inside the police station,  
12 ask for help. Came back. She did that  
13 various times. And at one point, it's very  
14 important because I was leaving it out. I  
15 don't think what I was thinking about. At  
16 one point it was almost during the first  
17 after I was already cuffed, I was already  
18 cuffed. They had tased my quite a few  
19 times. It was almost, like, kind of slowing  
20 down, and to the part that he kicked me.

21 So, that he was continued  
22 kicking. Then my wife told him, Quinoy,  
23 you're going to kill him. So, he turned  
24 around. I was faced up looking the other  
25

M. GOMEZ

1 way, and my wife's car was still running in  
2 the middle of the road with the lights on,  
3 headlights.

4 He picked up my wife and body  
5 slammed her into the car. She fell on her  
6 two knees and yell from the pain. And I got  
7 up. I don't know what I was thinking. I  
8 guess it was seeing this, and I got up again  
9 on my knees, and I got up, and I was still  
10 cuffed. I said, hey, you mother fucker.  
11 She just got surgery a month ago. I  
12 remember saying that. And she just got her  
13 surgery, big surgery only one month ago.

14 So, then I felt another kick in  
15 the back, boom, boom, and one in the back  
16 almost on the back of my neck. The first  
17 one big blow in the back, and I fell to my  
18 knees. And another one in the back of my  
19 neck, and I fell to the ground again.

20 When they continued with the  
21 second wave of that incident, you know.

22 MS. SHERVEN: I'll move to  
23 strike the portions that were not  
24 responsive.  
25

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M. GOMEZ

1 Q. Did you see your wife  
2 physically go into the police station?

3 A. I saw her in the corner of my  
4 eye. She was running. I didn't know where.

5 After the incident she stated  
6 to me that I went two or three times in the  
7 station asking for help for whoever was  
8 there, the sergeant or --

9 Q. Did she tell you whether she  
10 spoke with someone inside the police  
11 station?

12 A. Yes, she did.

13 Q. Who did she say she spoke with?

14 A. Should I say their names?

15 MR. YOUNG: Okay, again, I  
16 think this is all beyond the scope of  
17 this deposition, but Counsel will do  
18 it at her own peril.

19 A. She said it was a sergeant  
20 there, and I believe it was Sergeant Paul  
21 Hood. I believe. I'm not sure. It was a  
22 lieutenant there.

23 Q. Do you know which lieutenant?

24 A. I don't remember.

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M. GOMEZ

1 Q. Did your wife tell you what she  
2 said when she was inside the police station?

3 A. Yes.

4 Q. What did she say?

5 A. Please, help. Come outside and  
6 help my husband. He's getting killed. He's  
7 getting killed. He's going to get killed.

8 Q. What, if anything, did either  
9 of those two police officers that you  
10 mentioned say?

11 A. I have no idea. I know that  
12 she yelled. She screamed. She tell them.  
13 Then she go and she went back outside  
14 running.

15 Q. Did she tell you if they  
16 responded to her in any way?

17 A. From what she told me they  
18 looked at her. They was just looking at  
19 her. I don't know if any of those two  
20 officers ever came out.

21 Q. Did you see either of those two  
22 officers outside of the police station at  
23 all that night?

24 MR. YOUNG: Well, he only

25

M. GOMEZ

1 identified one possibly, so he  
2 doesn't know who the other one is.

3 Q. Fine. Let's talk about the one  
4 that you identified Sergeant Hood?

5 A. I saw Sergeant Hood later  
6 during the arrest. I was already in the  
7 precinct.

8 Q. I'm just talking about outside  
9 the precinct?

10 A. Outside, no.

11 Q. Did you see anyone that had a  
12 lieutenant, some identifying marker as a  
13 lieutenant outside the police station that  
14 night?

15 A. No, not that I can recall, no.

16 Q. Before Detective Quinoy made  
17 physical contact with your wife, did he say  
18 anything to her?

19 A. Not that I recall, no.

20 Q. At any point in time did you  
21 see your wife make physical contact or touch  
22 in any way Detective Quinoy?

23 A. No.

24 Q. Have you spoken with your wife

25

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M. GOMEZ

1 about the specifics of that moment when she  
2 and Detective Quinoy made physical contact?

3 A. Yes.

4 Q. Did she ever tell you that she  
5 touched Detective Quinoy in any way?

6 A. Well, yes. She told me that  
7 she tap him in the arm or grab him a little  
8 bit, Jose, because we call him Jose. You're  
9 going to kill him. Please, stop. You're  
10 going to kill him. He turned around, but I  
11 didn't see that part.

12 Q. Let me just stop you there.  
13 I'm just asking about her making contact  
14 with him. You didn't see that happen?

15 A. I don't recall it basically.

16 MR. YOUNG: That's his  
17 testimony.

18 A. If I don't even know. I think  
19 she --

20 MR. YOUNG: -- stop. Stop.  
21 You just said you didn't see it. You  
22 just said she told you she may have  
23 tapped him.

24 A. Yes.

25



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M. GOMEZ

Q. Did she tell you anything else about how she touched or made physical contact with Detective Quinoy?

A. I think that she did told me, yes, that she held him in the arm, like, this. Jose, you're going to kill him. Stop. And then he turned around, picked her up, and body slammed, threw her against the car, you know.

Q. Did you see him physically lift her up off of the ground?

A. Yes.

Q. Did her feet actually leave the ground?

A. Yes.

Q. Where did this happen in relation to where you were physically located, like, how far away?

A. Oh, about --

MR. YOUNG: How far was she lifted or?

Q. No. No. How far away were Detective Quinoy and your wife from where you were located?

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M. GOMEZ

A. I was faced down in the ground, but I was looking up at the same time, because they were right in front of me. Not to the left, not to the right, that happened right --

Q. How far away?

A. About from here, four feet, three feet.

MR. YOUNG: To the end of the table?

A. She came -- no, actually, no. Less than that, because he was in the process of kicking me when she did that. And he was right next to me, so it happened, like, I would say two feet away from me.

Q. Where were Detective Quinoy's hands when he physically picked her up in the manner that you described?

A. Counsel, I can't really -- I know that he picked her up and body slam her against the car. I can't really tell you if the left hand was up and down. I can't really remember that.

Q. Were both of his hands on her

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body?

A. Yes. You need, actually you need two hands -- she's not that heavy, but you need actually two hands to pick up ninety pounds.

So, he picked her up and push it, like, actually got her like this, and push her against the car, you know.

Q. You're indicating picked her up and push her?

A. Not push her, actually you throw, like, when you throw a basketball the way you push her, right.

Q. Did she come into contact with some other object?

A. Yes, with her car.

Q. How far was her vehicle away from either the area you were or the two to three feet from you where Detective Quinoy and your wife were located?

MR. YOUNG: Wait, let's rephrase that, because you're asking him a distance measured from two different locations.

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M. GOMEZ

Q. Well, whichever way is easier for to you describe it. Can you approximate for us I guess how far the car was from where you were located if that's easier than the other way?

A. About five feet, five feet, five and a half, around there, four to five feet away, four feet. I can't really tell you. I know the car was very very close. And five, six, you know, around five, six feet, around there.

Q. So, it was approximately five feet from where you were?

A. Yes, right.

Q. Was the car parked also in front of you?

A. No, it was not parked.

Q. Was the car stopped basically in front of you or within --

A. Right.

Q. -- within your straight line of vision?

A. Right. I was here. The car was here right in front of me.

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M. GOMEZ

Q. Okay.

A. In the street.

Q. So, when you were looking up towards where Detective Quinoy and your wife were, you could also see the car?

A. Yes.

Q. What portions of her body made contact with the car?

A. At that time, I know that she had hit the car. I didn't know what portion of the body. I know she fell on her knees. She told me it was -- I'm not even sure now. I know she fell on the ground, and she had bruised ribs.

Q. Did she have any other injuries?

A. Not -- yeah, she had a few knee scrape, a couple of scraped knees and elbows where she fell to the ground.

Q. Did you see any other police officer make physical contact with your wife at any point in time during this evening?

A. No. No.

Q. Did your wife ever tell you

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whether she touched or made contact with any other police officer other than Detective Quinoy?

A. No. She didn't make any contact with any other police officer.

Q. From the time you were handcuffed until the time that this came to an end, did you see any other police officers other than the ones that you've told us arrive in the area?

MR. YOUNG: Now. When you say an end, do you mean when the last blow was thrown?

MS. SHERVEN: Yes. That's what he described earlier for the timeframe.

MR. YOUNG: Okay.

A. After my wife got thrown in the car, I turned around. I fell back. I got up. I fell back to the ground. They started the same thing again. The same part of kicking, and so at this time, I fell facing this way instead of facing the car. Because after I got hit, I fell the other

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way, and I saw there was already a couple of the police officers from Sleepy Hollow.

I think at the end it was a couple Police Officer Michael Hayes and Police Officer Richard D'Allesandro.

Q. You knew both of them by name at that time?

A. Yes. Yes.

Q. Did either of them during this time period that we've been talking about ever make physical contact with you?

A. No.

Q. Did you see if either of them had anything in their hands?

A. No. I can't recall if they did. I couldn't pay attention to that, no.

Q. After Detective Quinoy threw your wife in the way that you described, where did you feel or see physical contact on yourself?

A. Oh, I got up, and I felt one kick, hard kick in the back in the middle of my back, and I fell. You know, fell on my knees, because I was on my knees, but I was

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M. GOMEZ

still, like, when you're praying.

MR. YOUNG: Handcuffed.

A. And then I felt another kick right behind my neck, and that knocked me down to the ground.

Q. Did you see who kicked you in the back?

A. No, I did not. No, it was from behind.

Q. Did you see who kicked you in the head, or, sorry, did you say in the back of the neck?

A. Yeah.

Q. Did you see who kicked you in the back of the neck?

A. No. It was actually like boom, boom, simultaneously right next to each other, so I don't know.

Q. Do you know even if you didn't see, do you know which police officer it may have been that kicked you the way that you just described?

A. Well, the only one that I actually saw kicking me and --

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M. GOMEZ

MR. YOUNG: Now, again, this is after your wife was thrown.

A. Yeah. I saw Ebel and Detective Quinoy. Should I say something else? At no point that I can remember in the point in time I ever saw Officer Gasker kicking me and not that I remember.

Q. Approximately from the time where your body was positioned facing away from the car in the way you described, how much time passed until this all came to an end?

A. It was not too long after that. After that, it was pretty much almost over. I fell in and, I felt I know the knee right on my neck, it was actually choking me. And then I look up, and you know I'm not trying to be a melodramatic, but I was almost passing out in the street.

And then, I see a lot of lights, and it was a bunch of lights at that time. Then that's when I noticed because I heard all the voices, and I was down with the knee into my neck. And when they picked me up,

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they said, stop. I heard some other voices. It was the Tarrytown Police Department responded. They saved my life.

MS. SHERVEN: Move to strike that portion as nonresponsive.

Q. Did you see who the individual was whose knee you felt on your neck?

A. I'm not sure, but I think that was Officer Ebel, because Quinoy was still kicking me when the Tarrytown Police arrived. He was still kicking my head.

Q. Did you say anything to any of the police officers from the time that your wife was thrown in the manner that you've described until the time this came to an end?

MR. YOUNG: He's already testified to that. He said she just had an operation?

Q. Other than that, did you say anything else that was after?

A. No. I was actually yelling because when they put the taser in my head that was the worst in my life, worst feeling

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in my life. I heard my brain bouncing inside my skull, and I was just yelling. You know, I don't usually yell, but I had to, you know.

MS. SHERVEN: I move to strike the portions that were nonresponsive.

Q. From the time after your wife was thrown so that you're facing in the other direction away from the car, was a taser used?

A. Yes.

Q. Did you see who used the taser at that point in time?

A. No.

Q. Where on your body was it used?

A. On the head again, on the head, and one more time, one last time in the head and a couple of times in the back.

Q. Did you see who it was who used the taser in your back at that time?

A. No. I was faced down, and I was getting kicked at the same time. So, I was faced down, and moving my head, and I had the pressure on my back. And I had Ebel

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M. GOMEZ

right on top of my back. I couldn't move.

Q. During this time period that we've been talking about, did any of the police officers say anything?

MR. YOUNG: During which time period?

Q. After what you told us about your wife being thrown, did any of the police officers say anything?

A. Say anything about?

Q. About anything. Did they say anything?

A. Not that I know. It was a lot of really voices and yelling and screaming, so all the police officers in the area I think -- so, I heard so much commotion, I can't exactly pinpoint who was saying what.

Q. Other than what you've already told us about where you told us that you punched Detective Quinoy, did you make any physical contact with any other police officers?

A. No.

Q. Did you attempt to make any

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M. GOMEZ

1 physical contact with any of the other  
2 police officers other than what you've  
3 already told us about involving Detective  
4 Quinoy?

5 A. The only thing I attempt was  
6 avoid from getting hit from Officer Ebel. I  
7 was just moving, and you know when I was  
8 getting choked, it's a natural response that  
9 your legs start kicking. That's the only  
10 thing that I was doing.

11 Q. When you said that your legs  
12 started kicking, was that near the very end?

13 A. Near the end, yes, yes.

14 Q. Were you kicking in any  
15 specific direction?

16 A. No. You know, like, when  
17 you're kicking, not kicking at -- just  
18 kicking back, because I had it was Ebel on  
19 top of me. And basically I was just trying  
20 not really, I was just trying to move,  
21 because I was getting choked. Not because I  
22 was trying to resist, Counsel, it was just  
23 trying to -- it was very painful and very  
24 uncomfortable.

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M. GOMEZ

1 Q. You told us that you saw police  
2 lights?

3 A. Yes.

4 Q. Do you know if those were  
5 Tarrytown Police lights or Sleepy Hollow  
6 cars or both?

7 A. There was Tarrytown, and  
8 Tarrytown Police cars and Sleepy Hollow  
9 police cars.

10 Q. Do you know any of the  
11 Tarrytown police officers who responded by  
12 name?

13 A. Do I know them personally?

14 Q. Do you know them by name,  
15 whether you know them?

16 A. Oh, yes. I remember one  
17 Sergeant Daily, and I can't remember the  
18 other police officer's name. It was about  
19 two or three of them. No, three or four.

20 Q. The other two or three were  
21 regular police officers as far as you know  
22 versus sergeants or lieutenants?

23 A. I believe so, yes. I'm not  
24 quite sure.

M. GOMEZ

1 Q. Do you know which police  
2 officers arrived in the Sleepy Hollow police  
3 vehicle?

4 A. I guess it had to be Richard  
5 D'Allesandro, Officer D'Allesandro and  
6 Officer Michael Hayes, because they were not  
7 there during the start or the middle of the  
8 incident. I saw them at the middle to the  
9 end.

10 Q. Did you see them actually  
11 arrive in the vehicle, or are you making  
12 that connection because you saw them at the  
13 end?

14 A. No. I'm making that  
15 connection. I didn't see.

16 Q. Did there come a point in time  
17 when you were placed inside of a police car?

18 A. Yes.

19 Q. Up until that time other than  
20 the police officers you've already told us  
21 about, those from Tarrytown and those from  
22 Sleepy Hollow, did you see any other police  
23 officers?

24 A. No.

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M. GOMEZ

1 Q. Just so we're clear, what you  
2 told us already Detective Quinoy, Officer  
3 Ebel, Officer Gasker, the three to four  
4 Tarrytown police officers and then Officer  
5 Hayes and Officer D'Allesandro; is that  
6 correct?

7 A. Yes.

8 Q. Anyone else?

9 A. Not that I can recall, no.

10 Q. Who placed you into the police  
11 vehicle?

12 A. I was picked up either by  
13 Officer Hayes and D'Allesandro, and they  
14 took me to the police vehicle.

15 Q. How did they pick you up?

16 A. Well, I guess by the arms  
17 because I couldn't walk. I was basically --  
18 I was, I couldn't hardly walk. So they took  
19 me to the police vehicle.

20 Q. Did they physically carry you?

21 A. No, not carry. No. No. I was  
22 basically able to walk by myself, but I was  
23 almost like -- what do you call that? When  
24 you put your arms around and need.



1 M. GOMEZ

2 MR. YOUNG: They assisted you?

3 A. Yeah, assisted me. That's a  
4 better word. Instead of picked up that  
5 means the whole body, right, no.

6 Q. But your feet were touching the  
7 ground?

8 A. Yeah. It took a little while  
9 for me to be able to walk, because they just  
10 helped me up. And at the time, the incident  
11 had already stopped. Detective Quinoy was  
12 talking to the Tarrytown Police, and was  
13 talking to, and it was all the lines and all  
14 commotion.

15 MR. YOUNG: Hold on. The  
16 question was: Who helped you into  
17 the police car.

18 A. I believe it was -- I know I  
19 was actually assisted by underneath the arm  
20 they picked me up.

21 Q. That was by Officer Hayes and  
22 Officer D'Allesandro?

23 A. Yes, right, I'm pretty sure it  
24 was them, too.

25 MR. YOUNG: Okay, that's your

1 M. GOMEZ

2 answer.

3 A. Yeah.

4 Q. Did they physically place you  
5 into a police vehicle?

6 A. More or less, I couldn't say  
7 they physically. You know, by that time I  
8 was, it's okay, okay, it's all right. Like  
9 I was trying to actually speak and do  
10 something for myself.

11 And actually I was placed  
12 inside of the vehicle. The patrol car had  
13 the door open, and Richard D'Allesandro was  
14 standing next to the door. Officer Quinoy  
15 started approaching giving Richard  
16 D'Allesandro directions.

17 Q. I'm going to stop you right  
18 there, because I don't have a question as to  
19 what happened next.

20 A. Okay. Sorry.

21 Q. That's okay. Were you placed  
22 or did you sit into the back of the patrol  
23 car?

24 A. The back, yes, where the  
25 prisoners go.

1 M. GOMEZ

2 Q. Did Officer Hayes or Officer  
3 D'Allesandro say anything to you during the  
4 time that they assisted you to the car to  
5 the police car?

6 A. No, not that I can recall. No.  
7 No.

8 Q. Did you say anything to them  
9 during that time period?

10 A. I don't think so. I was just  
11 trying to look around.

12 Q. Where was your wife at that  
13 time?

14 A. I guess she was still there and  
15 around that area. I couldn't. At the very  
16 end, I couldn't place her. You know, but  
17 she was there. Because at that time, there  
18 was a lot of people in the streets.

19 Q. Did you recognize any of the  
20 people in the streets?

21 A. I was kind of, you know, I was  
22 almost passed out. I couldn't really  
23 recognize, you know.

24 MS. SHERVEN: I move to strike  
25 the portion that's not responsive.

1 M. GOMEZ

2 Q. When you got into the police  
3 car, you said that Officer D'Allesandro was  
4 standing next to the car; is that right?

5 A. Yes.

6 Q. What happened next?

7 A. Well, I think Officer  
8 D'Allesandro got assigned to take me around  
9 to the precinct to the police station. He  
10 had the door open. I was sitting in the  
11 back seat cuffed.

12 MR. YOUNG: Indicating arms  
13 behind the back.

14 A. Yes, my arms behind the back,  
15 cuffed behind my back. And Officer  
16 D'Allesandro had the door open. I saw  
17 Detective Quinoy yelling some directions to  
18 Officer D'Allesandro. He started  
19 approaching the car, and at that point I  
20 actually I didn't expect it. I didn't see  
21 it coming. He kicked me right in the face,  
22 which completely knocked me to the other  
23 side of the vehicle and I end up lying  
24 against the door.

25 Q. When you say "he" who are you

M. GOMEZ

1 referring to?

2 A. Detective Quinoy kicked me  
3 right on the right side of the face.

4 Q. Other than assisting you to the  
5 car in the way that you described, did  
6 Officer D'Allesandro make physical contact  
7 with you in any way?

8 A. No. No.

9 Q. Other than assisting you to the  
10 car, did Officer Hayes make any physical  
11 contact with you?

12 A. No.

13 MS. SHERVEN: Let's just take a  
14 break.

15 (Whereupon, a recess was  
16 taken.)

17 Q. Just before Detective Quinoy  
18 kicked you in the way you described while  
19 you were sitting in the police car did he  
20 say anything to anyone?

21 A. Yes. He was giving directions  
22 or orders to Officer D'Allesandro.

23 Q. What did he say?

24 A. I have no idea. I was already,  
25

M. GOMEZ

1 you know, I was feeling pretty bad, and I  
2 was cuffed. And when I looked to the left  
3 and when I looked to the right, I saw him  
4 approaching. He was pointing his fingers  
5 giving Officer D'Allesandro direction, and  
6 he started getting closer, closer, but I  
7 never expected him to do that.

8 So, he kicked me. I got  
9 knocked out to the other side of the car,  
10 and then he slammed the car behind him.

11 MS. SHERVEN: Move to strike  
12 the portions that are not responsive.

13 Q. I know you said he was giving  
14 Officer D'Allesandro instructions. What  
15 leads you to believe that he was giving him  
16 instructions?

17 A. Because he's a detective. I  
18 mean things going on, and the police officer  
19 was standing there. After that, after I got  
20 kicked, Officer D'Allesandro got in the  
21 driver's seat, and he drove me around the  
22 corner, and he took me to the back of the  
23 police station.

24 Q. I'm going to stop you there.  
25

M. GOMEZ

1 Did you hear the content of anything that  
2 Detective Quinoy said to Officer  
3 D'Allesandro that leads you to believe that  
4 he was giving him instructions?

5 A. No. No. I can't actually.

6 Q. During that time period, did  
7 you see Officer D'Allesandro do anything?

8 A. What do you mean do anything?

9 Q. Anything. Did he move? Did he  
10 do anything whatsoever?

11 A. Well, no, after they placed me  
12 in the car, and Officer Hayes went another  
13 direction. I don't know. It was so many  
14 commotion and people. The one that was  
15 standing with the door open was Officer  
16 D'Allesandro.

17 Q. From the time that Officer  
18 D'Allesandro assisted you into the car and  
19 he was standing next to the car and the time  
20 that Detective Quinoy came up to the car,  
21 did you see Officer D'Allesandro move at  
22 all; like, move away from the car? Move in  
23 any direction.

24 A. No. No. He was there.  
25

M. GOMEZ

1 Q. Did Officer D'Allesandro say  
2 anything in response to Detective Quinoy  
3 during that time period?

4 A. They were talking. I can't  
5 remember what. I cannot remember.

6 MR. YOUNG: That's it. You've  
7 answered the question.

8 Q. Now, you said that Officer  
9 Hayes walked away from the car. Where did  
10 he go?

11 A. I have no idea.

12 Q. But did he at any time enter  
13 the police car?

14 A. No.

15 Q. So, at some point in time  
16 Officer D'Allesandro gets into the vehicle  
17 and drives the vehicle to the police  
18 station, correct?

19 A. Yes.

20 Q. Was anyone else in the car with  
21 you and Officer D'Allesandro?

22 A. No.

23 Q. Did you speak to Officer  
24 D'Allesandro during anytime that you were  
25